

**Amendment No. 1 to HB0891**

**Hackworth  
Signature of Sponsor**

**AMEND Senate Bill No. 1060**

**House Bill No. 891\***

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. This act may be known as the "Fair Campaign Practices Act".

SECTION 2. Tennessee Code Annotated, Section 2-19-142, is amended by designating the existing language as subsection (a) and by adding the following new subsection thereto:

(b) Notwithstanding the provisions of any other law to the contrary:

(1) If a person, corporation, organization, entity, or committee publishes, broadcasts, or distributes, or causes to be published, broadcast or distributed any false and defamatory campaign literature or political advertisement relating to the conduct, fitness, or record of any candidate for public office with knowledge of the falsity or with reckless disregard of the truth or falsehood, then such person, corporation, organization, entity, or committee shall be liable upon proof by clear and convincing evidence for damages in a defamation action brought by such candidate.

(2) Such damages shall include compensatory damages and punitive damages in such amount as the court may allow.

(3) In any action brought pursuant to this subsection (b), the court may award reasonable attorney's fees and costs to the prevailing party.

(4)

(A) A person, corporation, organization, entity, or committee that publishes, broadcasts, or distributes, or causes to be published, broadcast or distributed any false and defamatory campaign literature or political advertisement relating to the conduct, fitness, or record of any candidate for public office, upon being given written notice by such

candidate that such campaign literature or political advertisement is false and is considered defamatory, shall have forty-eight (48) hours to take reasonable steps to correct and to retract such false and defamatory campaign literature or political advertisement. Such notice shall identify with specificity the false and defamatory content in the campaign literature or political advertisement and shall provide a reasonable basis-in-fact demonstrating such falsity and defamation.

(B) The notification requirements of subdivision (4)(A) shall be deemed to be met if the notice is sent by certified mail.

(C) Evidence that a person, corporation, organization, entity, or committee failed to correct and retract such false and defamatory campaign literature or political advertisements after being given the notice in accordance with this subdivision (4) shall be considered upon the awarding of punitive damages.

(D) There shall be a rebuttable inference that a suitable retraction of false and defamatory campaign literature or political advertisements was made if the parties involved in such publication, broadcast or distribution participate in a joint press conference.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect July 1, 2009, the public welfare requiring it.